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PLM-11

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

FILE: B-193750

DATE: August 28, 1979

MATTER OF: William H. Brewster- [Real estate  
expenses- Owner's title policy]

DIGEST: Veterans Administration employee is precluded by FTR, para. 2-6.2d, from being reimbursed for an owner's title policy, even though the purchase of such a policy is not uncommon. The fact that a publication by the Department of Housing and Urban Development cautions home buyers that an owner's title policy should be purchased to protect their interests does not dictate a contrary result, since purchase of the policy was not legally required, but a matter of prudence.

This action concerns the request by Mr. William H. Brewster, a Veterans Administration (VA) employee, for reconsideration of our Claims Division's settlement dated September 26, 1978, disallowing his claim for reimbursement of \$118.50 for an owner's title policy incident to the purchase of a residence at his new duty station. Mr. Brewster has already been reimbursed the \$75 cost of a mortgage title insurance policy.

In March 1978, Mr. Brewster was transferred from New Orleans, Louisiana, to Indianapolis, Indiana, incident to his employment with the VA. In connection with the purchase of a residence at his new duty station, the employee claimed, among other real estate expenses, reimbursement for an owner's title policy (\$118.50) on his new residence. Reimbursement for such item was denied by the VA and our Claims Division under the limitations stipulated in para. 2-6.2d of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973).

The employee acknowledges that the regulations do not authorize reimbursement for an owner's title policy, but asks that our Office administratively overrule the regulations issued by the General Services Administration (GSA), so as to permit allowance of his claim. He suggests that the cited regulation is unrealistic in terms of current practice among home buyers. In addition he believes that it is inconsistent

*Real estate purchases*  
*Real estate*  
*Relocation expenses claims*  
*Housing allowance*  
*Relocation allowances*

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B-193750

with a brochure published by the Department of Housing and Urban Development which cautions that home buyers "will need an owner's title policy" as protection against certain mistakes and legal defects.

The basic statutory authority for reimbursement of residence transaction expenses of transferred employees is found at 5 U.S.C. 5724a(a)(4) (1976). Executive Order 11609, dated July 22, 1971, authorized the Administrator of GSA to prescribe the regulations necessary to administer the law governing relocation allowances and entitlements for Federal employees. Pursuant to those authorities, para. 2-6.2d of the FTR, provides, in pertinent part, that:

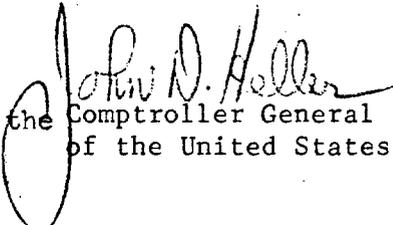
"\* \* \* The cost of a mortgage title policy paid for by the employee on a residence purchased by him is reimbursable but costs of other types of insurance paid for by him, such as an owner's title policy, a 'record title' policy, mortgage insurance, and insurance against damage or loss of property, are not reimbursable items of expense. \* \* \*" (Emphasis added.)

As distinguished from a mortgage title policy, the cost of which is reimbursable, an owner's title policy is one that the purchaser of a residence obtains for his own protection. As such, it is generally regarded as a nonreimbursable personal expense, incurred at the employee's election and not essential to consummation of the real estate transaction. 55 Comp. Gen. 779 (1976). Where the purchase of an owner's title policy is legally required as a condition to the transaction and not simply a matter of prudence on the part of the purchaser, we have recognized that the cost of an owner's title policy may be reimbursed. Alan G. Bolton, Jr., B-189488, August 18, 1977. While Mr. Brewster has convincingly argued that many home buyers currently purchase owner's title insurance policies, in the absence of a showing that he was legally required to obtain such a policy in connection with the purchase of his Indiana residence, we find no basis to reimburse him the \$118.50 expense he incurred. The fact that a Government publication cautions home buyers to protect their interests by purchasing an owner's title policy does not dictate a contrary result. The controlling GSA regulations are statutory regulations

B-193750

having the force and effect of law and, therefore, may not be waived or modified by this Office, nor by the employee's agency. 49 Comp. Gen. 145, 147 (1969).

Accordingly, the action taken by our Claims Division in disallowing Mr. Brewster's claim is sustained. His concerns that the regulations, are unduly restrictive should be addressed to the GSA.

  
For the Comptroller General  
of the United States